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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the United Nations High Commissioner for Human Rights on the Human Rights Field Operation in Rwanda, in accordance with General Assembly resolution 51/114 of 12 December 1996.

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Annex

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE HUMAN RIGHTS FIELD OPERATION IN RWANDA

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I. INTRODUCTION

1. The present report is submitted pursuant to General Assembly resolution 51/114 of 12 December 1996, in which the Assembly requested the United Nations High Commissioner for Human Rights to report on the activities of the Human Rights Field Operation in Rwanda to the General Assembly at its fifty-second session. The terms of Assembly resolution 51/114 were expanded by the Commission on Human Rights in its resolution 1997/66 of 16 April 1997,[a] adopted without a vote; in that resolution, the Commission requested the High Commissioner "to report regularly on the activities and findings of the Human Rights Field Operation in Rwanda, and make those reports widely and promptly available to both the Commission and the General Assembly". The Economic and Social Council, in its decision 1997/274 of 22 July 1997, took note of Commission resolution 1997/66.

2. The present report thus provides an update of the human rights situation in Rwanda and the role of the Field Operation since the High Commissioner's previous report to the General Assembly, submitted on 10 October 1996 (A/51/478, annex). As described below, several events have required significant changes to be introduced into the structure and functions of the Operation. The High Commissioner has determined that, at this stage, the future direction of the Operation needs to be carefully evaluated and, accordingly, has requested a highly qualified expert to assess the mission's work in close consultation with the Government of Rwanda. As this process has not yet been completed, the findings and recommendations from the assessment will be included in an addendum to the present report when they become available.

II. ACTIVITIES OF THE HUMAN RIGHTS FIELD OPERATION IN RWANDA SINCE NOVEMBER 1996

3. In accordance with its current mandate, the Field Operation carries out investigations into alleged violations of human rights and humanitarian law, monitors the ongoing human rights situation; cooperates with other international agencies in charge of re-establishing confidence and thus facilitates the rebuilding of civil society; and implements programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice.

4. A number of important developments have taken place since the High Commissioner's previous report to the General Assembly; namely, the massive return in November and December 1996 of Rwandans to their communes of origin from the neighbouring United Republic of Tanzania and Zaire;[b] a serious deterioration in security and the human rights situation in a number of prefectures in Rwanda since January 1997; an increase in the number of detainees held in Rwandan prisons and other detention centres, which worsened the already overcrowded conditions in all centres; and the start of trials of persons accused of having participated in the genocide.

5. Over the past few months, the Field Operation has focused its monitoring activities on the human rights situation in the context of the mass influx of

returnees to Rwanda and the rise in insurgency and counter-insurgency activities. The Operation brings instances of possible human rights violations to the attention of relevant authorities. In reports and regular meetings with representatives of the Government of Rwanda, the Operation informs the Government of these incidents, encourages it to take appropriate measures to investigate them and to impose sanctions where necessary, and submits recommendations to prevent similar events from occurring. The Operation regularly proposes specific recommendations to the Government with a view to rectifying shortcomings in its observance of international human rights standards. In addition to monitoring the human rights situation in Rwanda, the Operation has been carrying out the activities described below.

A. Response of the Field Operation to the mass return movement

6. One of the main elements of the Field Operation's mandate has been to assist the Government of Rwanda in building confidence within the country in order to facilitate the return of refugees to their communes of origin - a precondition to lasting peace and stability in the Great Lakes region. Unfortunately, the mass return occurred in conditions that made registration of the returnees impracticable. Given the scale of the mass return, persons who may have been directly responsible for acts of genocide and associated violations of human rights and humanitarian law, perpetrated during the 1994 civil war in Rwanda, entered the country among the legitimate refugees. The influx of these criminal elements resulted first in a noticeable decrease in the stability of certain regions, followed eventually by attacks, including those perpetrated against survivors of the genocide and persons associated with them.

7. The Field Operation had taken a number of steps prior to the mass influx of returnees, so that when the return movement suddenly occurred, the Operation was well-prepared to assist the returnees and to monitor the human rights situation related to the mass influx. In the wake of the forced closure of several camps in the Uvira/Bukavu and Goma areas of Kivu Province in Zaire, and the possibility of a massive arrival of returnees, the Operation redoubled its efforts in the prefectures of Rwanda, where the majority of refugees originated, enabling it to monitor, in close cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), the reception and reintegration of returnees into their communes of origin. In this respect, an additional memorandum of understanding between the Field Operation and UNHCR was concluded.

8. Following the start of the massive influx of returnees from Zaire on 15 November 1996, the Government of Rwanda announced that occupants of houses and land belonging to arriving returnees would have 15 days to vacate such premises. The Field Operation has observed difficulties in implementing this directive, and many returnees have not been able to recover their houses or property. In order to assist returnees who lack accommodation, civilian authorities have organized temporary transit centres at communal offices until accommodation becomes available or formerly owned property becomes vacant. While additional housing is being rehabilitated or constructed with the assistance of international agencies, a number of housing and property disputes have arisen between returnees and the current occupants, who include genocide survivors and earlier returnees, among others.

9. The High Commissioner welcomes the policy response of the Government of Rwanda and the steps taken by the Government to construct and provide housing. At the same time, it is crucial that property conflicts between genocide survivors and newly arrived returnees are addressed. In this connection, the High Commissioner appeals to the international community to take steps to increase its material and financial assistance to the Government of Rwanda in the construction and rehabilitation of housing.

10. In contrast with the first days following the mass influx from Zaire, the Field Operation received reports of a larger number of initial arrests of returnees from the United Republic of Tanzania. As in the case of returnees from Zaire, a number of the detainees had turned themselves in out of fear for their personal safety. In other instances, members of the local population took returnees into custody and brought them to local detention centres on charges of participation in the genocide.

11. Indicative of the significant increase in killings and other attacks against genocide survivors and their associates is the fact that from January to mid-February 1997, the Field Operation learned of the killings of 424 persons in 55 separate incidents. These include eight separate incidents throughout the country in which an estimated 54 genocide survivors and persons associated with them were killed and a further 22 injured.

12. The Field Operation also increased its contacts with the authorities in order to increase its human rights assistance to the Government, and augmented its field presence. In particular, the Operation made preparations to assist local authorities in establishing commune committees and other forms of informal local institutions that build local capacity to address issues of justice and reconciliation, security, and the needs of returnees and other groups of the population; to the extent possible, monitored the movement of returnees from transit centres to the communes of origin as well as the arrival of returnees at communal offices; monitored the arrest and detention of returnees through regular visits to local detention centres and collated statistics on detained returnees; monitored the reintegration of returnees through visits with individual returnees and returnee families and held discussions with local authorities and the population in general; investigated alleged incidents involving returnees (in particular incidents of alleged violations of the right to life, the right to security and integrity of the person, and the right to liberty of movement); discussed and followed up on human rights incidents with relevant local and national authorities; provided a presence to promote confidence among the returnees, the population at large and local authorities; participated in crisis cell meetings at the communal and prefectural levels; and facilitated the flow of information to relevant government officials and organizations competent to address material and institutional needs at the communal and other levels.

13. During this period, every field team of the Operation had at least one human rights field officer in charge of returnee reintegration issues, responsible for collecting all information regarding returnees and, together with the team leader, for coordinating the Operation's response and assuring regular meetings and information exchange with government officials and UNHCR at the prefectural level. The Operation's coordination and cooperation with UNHCR

was improved through the additional memorandum of understanding between the Operation and UNHCR, mentioned above, which was specifically designed to strengthen coordination and reduce possible duplication with regard to the mass influx of returnees. In addition, together with the Ministry of Justice and UNHCR, the Operation organized seminars on arrest and detention procedures at the prefectural and communal levels in order to address irregularities in this area; the Operation also prepared videos and organized human rights theatre troupes to raise human rights awareness of issues related to returnees.

14. Once the massive return movement of refugees had started, the High Commissioner reassessed the capacity of the Operation and, on 18 November 1996, appealed to Governments to augment the Operation to 200 by the end of February 1997 and to 300 as soon as identification of qualified personnel, availability of resources and logistical considerations would permit. However, the general security situation deteriorated significantly in January and February 1997, particularly in the north-western prefectures of Rwanda, which necessitated a reorientation in the structure and function of the Operation.

B. Response of the Field Operation to the worsening security and human rights situation in the north-western prefectures and the attacks on expatriates, including the assassination of five members of the Operation

15. Since the beginning of 1997, there has been a serious increase in security incidents involving expatriates working in Rwanda. The Field Operation has become aware of numerous incidents in which expatriates were the victims of killings, attacks or armed robberies. Six expatriates have been killed in three incidents. These incidents involved the killing of three members of a Spanish non-governmental organization on 18 January, the killing of a Canadian priest on 2 February in Ruhengeri Prefecture and the killing of five members of the Field Operation - two international human rights field officers and three local staff - on 4 February in Cyangugu Prefecture.

16. The two most serious incidents involving the Field Operation personnel occurred on 13 January and 4 February. On 13 January, four members of the Operation, including two international human rights field officers, were attacked, threatened and beaten, allegedly by a group of insurgents, while conducting a routine field visit to Giciye Commune, eastern Gisenyi Prefecture.

17. On 4 February, five members of the Operation, including two international human rights field officers, were killed during an attack by a group of around 15 armed individuals, suspected to be insurgents, on the road to Karengera Commune, southern Cyangugu Prefecture. The five members were on their way to attend a meeting organized by prefectural authorities in Karengera Commune.

18. On 12 February, two individuals suspected of participation in the attack were killed during an armed confrontation with the Rwandese Patriotic Army (RPA). On 14 February, the Field Operation was informed by the Government of Rwanda of the arrest of five other suspects. The Operation had private and confidential access to four of the five arrested suspects, inspected the scene of the attack and interviewed eyewitnesses to the incident. At the time of

writing the present report, the five suspects remained in custody and the Government of Rwanda had not provided the Operation with any further information that would lead to firm conclusions on the motives of the perpetrators or the extent to which others may have been involved.

19. The five members of the Operation who lost their lives did so in the service of promoting and protecting human rights in Rwanda with the utmost dedication and competence. The United Nations High Commissioner for Human Rights pays special tribute to the sense of devotion, courage and professionalism of all human rights staff in Rwanda. The five who lost their lives made the ultimate sacrifice in their pursuit of promoting fundamental freedoms and respect for human dignity in Rwanda. Their contribution will always be remembered.

20. The High Commissioner wishes to acknowledge the Government of Rwanda's cooperation in facilitating the visit of the Chief of the Field Operation to Cyangugu immediately following the incident, in the transport of the bodies to Kigali, in the evacuation of the remaining staff of the Operation from Cyangugu to Kigali and in opening an investigation.

C. Visit of the United Nations High Commissioner for Human Rights to Rwanda and restructuring and adaptation of the Field Operation

21. The High Commissioner visited Rwanda on 18 February 1997 in order to assess the status, activities and future strategy of the Field Operation, and to decide on further measures that might be necessary to adapt it. During the High Commissioner's visit to Kigali, the Government of Rwanda expressed deep regret at the tragic loss of life of the five members of the Operation and reaffirmed their strong interest in having the Operation continue its work in all aspects of its mandate and in all parts of the country. The Government explained the acts of violence perpetrated against staff of the Operation and other expatriates working in Rwanda by the fact that, two months after the peaceful and orderly mass return of refugees from Zaire and the United Republic of Tanzania, elements of the former Rwandan Army and the Interahamwe militia among the returning refugee population had established themselves firmly enough to carry out targeted terrorist activities. Genocide survivors and persons associated with them, but also expatriates, were the main victims of these attacks. Noting that United Nations security directives had resulted in a temporary evacuation of field teams of the Operation to Kigali, the Government of Rwanda expressed its view that the actual security situation in Rwanda did not warrant such measures and reaffirmed its interest in the Operation and its commitment to fully cooperating with the Operation in all aspects of its work, including security. The Government also expressed its willingness to cooperate further in the investigation of the killing of the five staff members.

D. United Nations security measures in response to the deterioration of the security situation

22. Following the killing of the five members of the Operation on 4 February, the United Nations Security Coordinator, in consultation with all United Nations operational agencies in Rwanda, declared the security situation in Rwanda to have reached phase IV in the western prefectures, as well as in parts of Kibungo, Gikongoro, Gitarama, Kigali Rural and Byumba Prefectures, signifying that all staff, except those essential for carrying out emergency, humanitarian and security functions of the agency in question, were recommended to relocate temporarily to Kigali.

23. In accordance with these recommendations, all personnel of the Operation were withdrawn from the various field offices to Kigali. Among the security measures taken, the Operation required, inter alia, its personnel to request permission to travel to destinations outside Kigali with prior notice of 48 hours. No travel of personnel was permitted except under armed escort. In addition, security meetings with heads of United Nations agencies and between the Chief of Mission and staff of the Operation were held on a regular basis to discuss and review the security situation. The Operation continues its regular security meetings with staff. The security detail is currently carried out by three internationally recruited security officers.

24. The Operation has been limited by current United Nations security restrictions in its conduct of continuous on-site monitoring activities throughout the country. However, it continued to collect credible information from a variety of knowledgeable and reliable sources within the prefectures under United Nations security phase IV, including eyewitnesses to incidents of violations.

25. By the beginning of September 1997, the Operation still could not visit all communes throughout the country. However, human rights field officers conducted regular field trips to all prefectural capitals, with the exception of Ruhengeri and Kibuye, both of which remained under United Nations security phase IV. These restrictions are currently being reviewed.

E. Current structure of the Field Operation

26. The current structure of the Field Operation is a result of the reorganization and reorientation of the mission following the killing of the five staff members and the onset of United Nations security regulations which has precluded the presence of human rights field officers in all security phase IV zones (currently the western prefectures of Rwanda).

27. The headquarters of the Field Operation comprises a number of units; namely, the Office of the Chief of Mission, the Security and Communications Unit, the Operations and Documentation Unit, the Legal Unit, the Education and Promotion Unit, the Translation Unit and the Administrative Unit.

28. The Operations and Documentation Unit undertakes reporting and analysis on the current human rights situation based on information and reports provided

principally by the Operation's field teams. The Unit is also in charge of the day-to-day management of field teams. The Special Investigations Sub-Unit supports field teams through its investigations of particularly grave incidents and provides training on investigative techniques for human rights field officers.

29. The Legal Unit concentrates on improvements in the administration of justice and in the status and conditions of genocide survivors, undertakes genocide trial monitoring and promotes improvements in penal administration. The Legal Unit seeks to enhance conformity of the legal system of Rwanda with international human rights standards through the promotion of legal reform. The Unit also carries out training of the gendarmerie and the communal police and works to augment and strengthen the capacity of human rights institutions through projects of technical cooperation in the field of human rights, and provides support to the Prosecutor's office to enhance the effectiveness of human rights norms in the context of the judicial system of Rwanda. As regards institution-building, the Legal Unit focuses on the setting up of a national human rights commission, a parliamentary human rights commission, as well as human rights departments in all ministries of the Government and works closely with the newly appointed Special Representative on Rwanda, whose mandate, created by the Commission on Human Rights in its resolution 1997/66,* involves these aspects.

30. The Education and Promotion Unit focuses on improving the position of vulnerable groups, such as women and children, and capacity-building within human rights non-governmental organizations. One of the goals of the Unit is to inculcate and foster a human rights culture within the school system and the public administration of Rwanda, through the development of human rights material in Kinyarwanda, English and French. The Unit will also support educational and promotional activities as well as other programmes of the Field Operation, in cooperation with the Translation Unit.

31. The Security and Communications Unit, vital to the safe and secure functioning of the Field Operation, carries out the following activities: liaison with security officers of other United Nations agencies; liaison with security officials of the Government of Rwanda; development of systems and procedures for the security of the Operation; ongoing evaluation of security threats and risks to the Operation; training of staff to increase security awareness; and ensuring the security of personnel, premises and documentation.

F. Projects in technical cooperation in the field of human rights, human rights education and promotion

32. During his last visit to Rwanda, the United Nations High Commissioner for Human Rights reached an agreement with the Minister of Justice to augment technical cooperation projects in support of the justice system. The following principal projects are to be undertaken by the Field Operation in the coming months: a training programme for judges and clerks of the specialized chambers of the Courts of First Instance so as to facilitate the genocide trial process; a mentor programme involving the attachment of experienced foreign judges and prosecutors to help guide judges and prosecutors of the specialized chambers in

the first year of genocide trials; the setting up of gratis legal aid services to provide counsel for the accused and to assist civil claimants in ongoing genocide trials; and the provision of advice on a fund to compensate victims and survivors of the genocide, which forms the subject of a bill elaborated by the Government of Rwanda currently before the National Assembly.

33. As regards the administration of justice and institution-building, the Field Operation organized conferences on human rights concerning the judiciary and conducted seminars on arrest and detention procedures in the wake of the mass influx of returnees to Rwanda in November and December 1996. The seminars on arrest and detention procedures took place throughout the country and were aimed mainly at authorities at the commune level.

34. In support of law enforcement officials, human rights field officers participated in the training of 150 new judicial police inspectors and 750 new communal police constables. The Field Operation organized a seminar on methods of investigation, criminal law, and arrest and detention procedures at Kigali in November 1996 for officers of the Criminal Investigations Department of the National Gendarmerie. In collaboration with the Ministry of Defence, the Operation organized a seminar for the High Command of the Rwandese Patriotic Army on the role of RPA in the protection and promotion of human rights (Kigali, 2-7 February 1997). Similar seminars were organized at Ruhengeri, Kibungo, Gitarama and Nyanza (Butare) for officers and men of various brigades of RPA covering the prefectures of Gisenyi, Ruhengeri, Kibungo, Umutara, Gitarama, Kibuye, Butare, Gikongoro and Cyangugu.

35. On 24 April, the Field Operation launched a series of seminars for judicial personnel organized jointly with UNHCR, the Ministry of Justice and the Supreme Court, with funding from UNHCR. The series is scheduled to run through to October 1997 and cover all 12 prefectures of the country. These seminars are intended to strengthen the capacity and improve the performance of all public officials - judicial, administrative military, and law enforcement officers involved in the administration of justice at the prefectural level.

36. Under the same programme, the Field Operation conducted a seminar in April for all levels of military personnel, in collaboration with the Ministry of Defence. The instruction to newly appointed members of the Military Court and the Council of War focused on substantive military offences, criminal procedure in the military courts, and the substantive and procedural aspects of the law governing the trials of persons accused of genocide and related offences.

37. Since the beginning of 1997, the Field Operation has taken a more comprehensive approach on the basis of an action programme developed by the Legal Unit in 1997. This structured programme of technical cooperation in the field of human rights involves the principal elements of the administration of justice and legal reform; penitentiary administration; training and institutional support; and genocide response and vulnerable groups.

38. The programme is designed to strengthen the independence of the judiciary; secure improvements in the performance of courts and personnel at all levels of the judicial system; secure improvements to Rwandan national law and practice in

compliance with international standards; evaluate the performance of the Rwandan criminal justice system within the framework of the prosecution before domestic courts of persons accused of genocide and other crimes against humanity committed in Rwanda since 1 October 1990; increase public awareness of Rwandan laws and judicial practices and procedures, including those related to the promotion and protection of human rights; serve as a reliable source of information on the Rwandan justice system; strengthen Rwandan institutions and enhance their capacity to contribute effectively to the promotion and protection of human rights in Rwanda; make human rights documents and materials available to central and field staff of the Human Rights Field Operation in Rwanda and to the general public; secure improvements in conditions of detention in Rwandan prisons and local detention centres; reduce and if possible eliminate overcrowding in places of detention and imprisonment; improve the performance of the penitentiary administration; document and produce communal histories of the 1994 genocide; improve the situation and conditions of certain vulnerable groups in Rwandan society; and assure the protection of witnesses in trials before the International Criminal Tribunal for Rwanda or before domestic courts, of persons accused of participation in the 1994 genocide and crimes against humanity committed in Rwanda since 1 October 1990.

39. To implement these objectives, the Field Operation produced a global technical cooperation project document which spells out the activities requested by potential beneficiaries of the project, particularly government officials at the national and local levels (notably those of the Ministries of Justice, Defence and the Interior), authorities of the Transitional National Assembly and leaders of the local non-governmental community.

40. The project covers five main areas of activity: human rights education and training for the judiciary, the military, the gendarmerie, the police, prison administration personnel, other civil servants and members of local human rights non-governmental organizations; capacity-building in the sector of civilian and military justice; capacity support for human rights non-governmental organizations; the popularization of human rights through formal and informal education and promotion activities; and support for genocide victims and vulnerable groups.

41. The Field Operation pursued its ongoing programme of human rights education and promotion through projects carried out jointly by headquarters staff, field officers and Rwandan partners, including local and national authorities, and human rights non-governmental organizations. The main objective of these initiatives is to create widespread awareness of human rights among the population in general, and certain target groups in particular, including civil servants, the military, women, youth representatives, teachers and students. The Operation organized seminars, conferences and workshops, continued to sponsor five human rights theatre troupes and produced video cassettes, playing cards, banners and radio plays on the theme of human rights.

G. Genocide response and vulnerable groups

42. The Field Operation continued to pay particular attention to the plight of the survivors of the 1994 genocide and of certain particularly vulnerable

groups. It focuses its activities on three main areas of assistance to Rwandan local communities wishing to document and publish the history of the genocide in their communes, in particular the situation of genocide survivors and pays greater attention to the minority Batwa community.

43. The Field Operation pursued its technical assistance for the local genocide history pilot project in a commune in Gitarama Prefecture, notably with regard to the transcription and verification of individual testimonies collected in the commune. In January 1997, it assisted the Association for the Promotion of the Batwa (APB) with the organization of a round table meeting to determine strategies and policies for the improvement of the situation of the Batwa.

44. A number of programmes designed to address genocide survivors and particularly vulnerable groups have been conducted on an ongoing basis. For example, in the first half of August 1997, the Field Operation participated in a seminar on the management of the data on the genocide being developed by Ibuka (the genocide survivors' organization), the Collective of Human Rights Leagues and Associations (CLADHO), International Alert and the Human Rights Information and Documentation System, International (Huridocs) in Gitarama Prefecture for Rwandan and foreign organizations working on the genocide.

H. Staff levels

45. Since the restructuring instituted in March 1997, the Field Operation comprises four sub-offices from which all field activities are coordinated and supported, and visits made to prefectural capitals. These are the Butare Sub-office (covering Butare and Gikongoro Prefectures), the Kibungo Sub-office (covering Kibungo and Umutara Prefectures), the Gitarama Sub-office (covering Gitarama, Kibuye and Ruhengeri Prefectures) and the Kigali Sub-office (covering Byumba, Kigali Ville and Kigali Rural Prefectures). In addition, two satellite field offices have been opened, one in Cyangugu and the other in Gisenyi, in which teams of two human rights field officers work closely with other United Nations agencies. Remaining staff have been deployed in Kigali to increase promotion activities at the national level.

46. By the beginning of September 1997, the Field Operation had 78 members, compared with 81 at the end of June and 89 at the end of March. Currently, the High Commissioner is seeking to identify some 20 qualified candidates to bring the Operation's staffing level up to that required for the more effective implementation of its mandate, and wishes to resume activities in all prefectures of Rwanda, security conditions permitting.

III. OVERVIEW OF THE HUMAN RIGHTS SITUATION IN RWANDA

A. The human rights situation since February 1997

47. The Field Operation has received reports of ethnically motivated attacks targeted against persons on buses of the public transportation system, reportedly carried out by armed groups. In February and March 1997, in two separate incidents, unidentified individuals suspected of being insurgents

attacked public transport buses, separating the passengers according to their presumed ethnic identity, and killed 17 persons.

48. Numerous attacks on judicial personnel have also become a cause for particular concern. For example, since 30 January 1997, the former President of the Kibuye Court of First Instance and defence counsel in the ongoing genocide trials has reportedly disappeared from Kigali Ville Prefecture. Investigations into this possible case of disappearance have been opened by the Field Operation and by local authorities but have been unsuccessful to date. The Operation has expressed its concern about the safety of this high-ranking official to the Minister of Justice as well as to the Vice-President and Minister of Defence. On 14 February, the Vice-President of the Supreme Court, who serves as President of the Council of State, was killed by unidentified armed assailants at his residence in Kacyiro Commune, Kigali Ville Prefecture. Investigations into the incident have been opened by local authorities. On 17 February, the Inspecteur de police judiciaire of Gituza Commune, Byumba Prefecture, together with the Prefecture's tax collector, were killed by unidentified perpetrators while riding a motorcycle in the Commune. The gendarmerie and the local prosecutor have opened an investigation into the incident.

49. The increase in attacks against judicial officials is highly disconcerting, particularly because it threatens to undermine the recent steps taken towards the resumption of the criminal justice system. The Field Operation has urged the Government to adopt measures that would ensure the safety of judicial officials and others involved in court proceedings against persons accused of genocide or other crimes against humanity.

50. In March, reports were received of the killing of at least 137 persons during RPA operations in Kigombe Commune, Ruhengeri Prefecture. Army officers who reportedly played an active role in those operations have been arrested.

51. The Field Operation also received continued reports of killings and other attacks motivated on ethnic grounds, reportedly carried out by armed groups. Cases reported include two separate attacks on schools where students were killed on ethnically motivated grounds in March and April 1997. The first attack resulted in the killing of six pupils in a primary school in Kibuye Prefecture, western Rwanda. A total of 17 female students were killed during the course of the second attack in Gisenyi Prefecture. In both cases, the perpetrators requested the students to identify themselves according to ethnic origin; when they refused to do so, they were gunned down.

52. The months of May and June saw a further deterioration in the security and human rights situation in Ruhengeri Prefecture. There was a significant rise in the number of killings - at least 2,022 persons were killed during RPA operations in several communes of Ruhengeri Prefecture. This was by far the highest number of reported killings in any prefecture during any two-month period since the Field Operation began monitoring the human rights situation in 1994. The Operation has gathered, analysed, and cross-checked information that shows a high number of killings during the RPA cordon-and-search operations, including a reportedly high number of unarmed civilians, such as elderly persons, women and children.

53. In August, there were numerous large-scale confrontations between armed groups and the RPA in Kanama and Rubavu Communes, in Gisenyi Prefecture, followed by cordon-and-search operations carried out by RPA in those areas. Some of those killed in the course of the operations were allegedly members of the former Rwandan Army, the Interahamwe militia or other armed opponents of the Government of Rwanda, who have targeted soldiers of RPA and unarmed civilians in the past. However, others killed during these cordon-and-search operations appear to have been unarmed civilians who were not actively participating in hostilities.

54. On 1 August, representatives of the Government acknowledged that the security situation had seriously deteriorated since May. According to the Government, during the period from May to June, 200 to 300 civilians were killed during military operations in Ruhengeri Prefecture; 1,800 members of armed groups were killed during confrontations; and 90 RPA soldiers, including four officers, were killed during confrontations.

55. At the end of August 1997, armed groups carried out the largest-scale attack against civilians since the 1994 genocide, at a UNHCR-administered camp located in Mutura Commune, northern Gisenyi Prefecture, which reportedly claimed the lives of 128 Congolese refugees and resulted in the wounding of 102 others. Three other persons subsequently died of wounds sustained during the attack. It seems that these persons were seeking refuge in Rwanda from ethnically motivated attacks by armed groups including soldiers of the former Rwandan Army, Interahamwe militiamen and the Zairian military.

56. Following such attacks, RPA conducted large-scale military cordon-and-search operations in the western prefectures of Rwanda. In the course of these operations, many unarmed civilians were reported to have been killed by soldiers under circumstances involving the excessive use of force and which appear to amount to extrajudicial executions.

57. The deterioration in the security and human rights situation in the north-western prefectures, namely Gisenyi and Ruhengeri, relates to escalating attacks by armed groups operating in those prefectures, a problem exacerbated by the apparent ease with which armed groups gain access to weapons, despite the imposition of a United Nations Security Council embargo on arms trafficking in the region.

58. The extensive RPA cordon-and-search operations appear to have led to a high number of civilian deaths. While the Government of Rwanda has a right and responsibility to protect its citizens from the serious threat posed by attacks carried out by armed groups, international human rights and humanitarian law limitations on the use of force in such circumstances must be respected. All those who take no active part in the hostilities must be treated humanely at all times and in all circumstances.

59. Following the incidents in August in Kanama and Rubavu Communes in Gisenyi Prefecture, a high-level delegation including the Vice-President, the Commander of the Military Police and the General Military Prosecutor travelled to Gisenyi to verify the incidents. The General Military Prosecutor confirmed to the Field

Operation that a number of RPA members, including high-ranking officers, had been arrested in connection with the incidents.

60. The admission that RPA officers may have violated international human rights and humanitarian law is to be welcomed since only then can a reckoning of the situation come about and action be taken to correct the problem. Through the Field Operation, the High Commissioner is willing to assist the General Military Prosecutor's Office to investigate and prosecute those responsible.

B. Conditions of detention

61. Since the implementation of United Nations security restrictions, it has been more difficult to obtain an accurate picture of the number of persons currently in detention in Rwanda. The number of detainees registered by the International Committee of the Red Cross (ICRC), had reached 122,000 by mid-September 1997. However, like the Field Operation, ICRC has been unable to visit Ruhengeri Prefecture since January 1997; this figure does not, therefore, include an updated tally of detainees in that Prefecture. According to official figures, the total detainee population of the 19 central prisons (which does not include detainees in communal cachots or military prisons) had reached 68,000 in May and 71,000 by the end of June 1997.

62. Improvements in a number of prison facilities, in particular at the Rwandex Prison in Butare Prefecture, where windows were installed in two cell blocks for male detainees, as well as in a number of other prisons, such as in Kibungo, have been noted by the Field Operation. However, the Operation continues to receive reports of ill-treatment in a number of other prisons, and lack of food, access to water and health care continue to be chronic.

C. Genocide trials

63. As regards genocide trial proceedings, on 27 December 1996 - two and a half years after Rwanda suffered the genocide and civil war, (which ended in mid-July 1994) - the first court proceedings against persons accused of genocide or crimes against humanity were opened pursuant to Organic Law No. 08/96 of 30 August 1996 on the Organisation of Prosecutions for Offences Constituting the Crime of Genocide or Crimes against Humanity committed since 1 October 1990 ("Genocide Law"). Between 3 January and 22 August, the Specialized Chambers of the Courts of First Instance handed down judgements in respect of 174 defendants. Human rights field officers have been able to monitor and report on most of the genocide trials that have taken place so far.

64. The steps taken towards bringing the perpetrators of the genocide to justice and compensating civil claimants are to be welcomed. Progress has been made since the commencement of the genocide trials, including the increased number of witnesses testifying in court; the improvement in detainees' access to case files; and the increase in the granting of reasonable requests for adjournments.

65. However, several aspects of the proceedings remain cause for concern, in particular the lack of full respect for some fair trial guarantees as required by Rwandan law and article 14 of the International Covenant on Civil and Political Rights,[c] and the lack of legal representation in many cases, as well as a general lack of opportunity for category-one defendants to cross-examine witnesses. These shortcomings can be particularly serious given the fact that if found guilty, under Rwandan law, the accused may face the death penalty.

D. Other judicial proceedings

66. In December 1996, criminal proceedings were conducted against a commander of RPA troops at the Kibeho incident of 22 April 1995, during which a large number of unarmed civilians were killed. On 30 December, the Military Court found the high-ranking official not guilty of murder and not guilty of the unauthorized use of arms. However, the Court did declare the official guilty of failing to protect the lives of civilians and sentenced him to 18 months imprisonment and a fine of 8,750 Rwanda francs (equivalent to approximately US$ 30).

67. The decision by Rwandan authorities to open judicial proceedings in connection with the events of 18-23 April 1995 at Kibeho and of 12 September 1995 in Kanama, which had resulted in numerous civilian casualties, in order to determine the responsibilities of a high-ranking officer in command of RPA troops during these incidents, is to be welcomed. However, various aspects of the military justice system of Rwanda remain of concern. The Field Operation has submitted its observations to the Government of Rwanda, including recommendations on measures to guard and strengthen the impartiality and independence of the judiciary as required by Rwanda's obligations under article 14 of the International Covenant on Civil and Political Rights.

68. On 1 September 1997, court proceedings were opened in connection with the events of 11 and 12 September 1995 in Kanama Commune, Gisenyi Prefecture, during which there were numerous civilian casualties. Four RPA officers (two majors and two second lieutenants) accused of murder and of complicity in murder were acquitted of those charges by the Military Court, but found guilty of the lesser charge of failure to assist persons in danger of dying. They were sentenced on 12 September 1997 to imprisonment of 28 months each.

IV. OBSERVATIONS

69. At this juncture, the High Commissioner wishes to conclude with the observation that the Field Operation has made significant progress in the implementation of its mandate, but that in many ways, the human rights situation has worsened considerably since the beginning of 1997 and particularly since May.

70. After three years in operation, many aspects of the human rights situation have yet to be improved significantly. While there have been notable improvements in the conditions of detention, the number of detainees has exceeded 120,000. Only a fraction of the number of persons accused of

participation in the genocide have been brought to trial. The continued detention of persons without trial, particularly in view of the fact that in most cases there is still no dossier setting out the factual and legal grounds for their arrest and detention, constitutes a major human rights concern.

71. As regards the violence perpetrated in the western prefectures, the Government has a right, and indeed a responsibility, to stem the insurgency there. Yet, however great the danger this poses to the security of Rwanda, the Field Operation has documented the killings by agents of the State of numerous unarmed civilians, including the elderly, women and children, who were taking no active part in hostilities. The indications are that, in many of these cases, RPA soldiers have not followed the most basic norms of international humanitarian law in carrying out cordon-and-search operations to flush out insurgents. In this respect, the Government of Rwanda must show a greater willingness to implement the recommendations of the Field Operation. In many cases, investigations into serious incidents, including massacres which apparently have involved the responsibility of State agents, have been opened, but have never been concluded.

72. The foregoing observations will be reviewed through the assessment mission that is to take place and whose findings and recommendations will form the substance of an addendum to the present report. The addendum will also indicate the financial outlook of the Field Operation.

Notes

[a] Official Records of the Economic and Social Council, 1997, Supplement No. 3 (E/1997/23), chap. II, sect. A.

[b] Zaire changed its name to "Democratic Republic of the Congo", effective 17 May 1997.

[c] General Assembly resolution 2200 (XXI) A, annex.